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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,862	10/30/2003	Peter Kancsar	ATM-2239-1	7709
217	7590	01/04/2005	EXAMINER	
FISHER, CHRISTEN & SABOL 1725 K STREET, N.W. SUITE 1108 WASHINGTON, DC 20006			FOSTER, JIMMY G	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/695,862

Applicant(s)

KANCSAR ET AL.

Examiner

Jimmy G Foster

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8 and 15-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 8, 15-25 and 27-32 is/are rejected.
- 7) ☒ Claim(s) 26 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 3728

1) In claim 8, eighth line from the bottom, the wording "should area" makes no sense. Apparently, this should be interpreted as "shoulder area". Correction is required.

2) Claims 31 and 32 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims are claims to a process, but there are no process steps claimed. For example, instead of claiming "forming depressions in a flat composite film", claim 31 claims "wherein depressions are formed in a flat composite film" which is a product limitation. Accordingly, it is unclear what Applicant is attempting to cover by the claims.

3) Claim 31 and 32 would be allowable if amended to overcome the rejections under 35 U.S.C. 112. The prior art does not teach or suggest sealing or gluing a roll-up element to edge regions of a blister pack such as claimed.

3) The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4) Claims 8, 15-20 and 22-25 are rejected under 35 U.S.C. § 102(b) as being anticipated by De Felice (4,231,477). In the reference of De Felice,

Art Unit: 3728

there is provided plural recesses/depressions 4 for holding plural contents 5 (medicine), a surrounding shoulder defined by the planar portion of the blister sheet, and opening aids at 6,7. The reference discloses using the opening aids to puncture the cover film (3) over the recesses. The examiner asserts that the blister pack is capable of being rolled up tighter than that shown in Figure 3.

Applicant's limitations which begin with "whereby" are broad enough to be interpreted as intended use and not structure. Applicant's claim 8 includes a limitation beginning with "whereby" in the limitation, "whereby the shoulders in total form a coherent flat shoulder surface." This limitation is therefore intended use, or function, and not structure in the claims. Moreover, all of the remainder of limitations in the claim following the "whereby limitation" appear to be an extension of that limitation and therefore are broad enough to be considered as intended use or function as well. Accordingly, the structure of claim 8 (and the dependent claims) is interpreted as being to a blister pack containing a multiplicity of recesses surrounded by a shoulder. The function or intended use in the claims is that 1) a cover film -- of aluminum foil coated with hot sealing lacquer, of thickness 20 to 25mm on which is laminated an exterior PET foil of thickness 12 to 20mm and a further lamination of paper -- may be provided to cover the recesses when the removable contents are provided in the recesses, that 2) the blister pack may be provided with an opening aid detachable from the shoulder which has an opening edge or point for weakening the cover film for pushing contents from the recess, that 3) the edge of the blister pack may be provided with a roll-up element attached thereto by glue or sealing for rolling back the shoulder area with the cover film on the inside and for causing the opening aid to be detached from the shoulder area and to contact

Art Unit: 3728

the cover film over the recess, that 4) opening aid may protrude from the shoulder at a tangent, and that 5) the roll up element may be attached by gluing or sealing.

Keeping this in mind, the reference of De Felice is considered to read on Applicant's structure since the blister pack of De Felice includes plural recesses and a surrounding shoulder. Additionally, the reference is considered to read upon Applicant's intended use or function claimed since the edge of the De Felice blister pack is capable of having a roll-up device attached to the edge for rolling a one of the opening aides 6,7 at a tangent from the shoulder and into the cover film over a recess.

However, even if the roll-up element was claimed as structure in the claims, it would not distinguish over De Felice, regarding claims 8, 15 and 17-20, since the corner of the shoulder of the blister pack of De Felice is considered to be capable of functioning as a roll-up element by rolling up the blister in a tighter curvature than is shown in Figure 3 of the reference. Moreover, regarding claim 23 which does claim the roll-up element (and other features) as structure, this is not considered to distinguish over De Felice since the corner of the shoulder 2 of De Felice may be considered to be joined to the edge portion of the shoulder, within the breadth of meaning of the term "joined". However, if "whereby" were changed to "such that" (in claim 8), claim 16 would patentably distinguish over the subject matter of De Felice since the reference does not disclose a roll-up element glued or sealed to the edge section in a blister pack such as claimed. (The claim could not reasonably be interpreted as having the roll-up element as being a part of the cover film).

Art Unit: 3728

5) The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6) Claim 21 is rejected under 35 U.S.C. § 103(a) as being unpatentable over De Felice (4,231,477) in view of Cloud (3,218,776). The De Felice reference already discloses recesses molded in a foil 2, medicine provided in the recesses, opening aids 6,7 applied by weakened lines/incision patterns 6, and a cover film 3 sealed over the recesses so as to seal the medicine in the recesses.

Although the foil 2 is not disclosed as being a composite, it is well known to make blister foils of a composite lamination of layers, such as a barrier material coated with sealable plastic, for combining the distinct functions of the layers of the foil. Therefore, would have been obvious to have made the blister foil of De Felice as a composite foil which combines the functions of the layers of the foil.

The reference of Cloud suggests in a process for forming blister packs including forming recesses (at 11) in a flat foil (from roll 16), filling the recesses with a content (at hopper 18), covering the recesses with a cover film (from roll 21), wherein the process further includes cutting individual blister packs out the continuous resultant product sheet. This permit the blister packs efficiently to be made from automated assembly, instead of by being made separately. Accordingly, it would have been obvious in view of

Art Unit: 3728

view of Cloud to have cut the blister pack from a continuous product assembly of blister packs.

7) Claims 27-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over De Felice (4,231,477). It is well known to make cover films for blister packs including an aluminum foil, a heat sealing coating, a PET layer and paper layer. Paper is known to functions as a labeling surface, and to provide strength to a film. PET is known also to provide strength. Aluminum foil is known to provide barrier properties. Heat sealing lacquer is known to provide a heat sealing function. Accordingly, it would have been obvious in view of this to have made the cover film of De Felice with layers, including a paper layer, a PET layer an aluminum layer and a heat seal layer, for providing such functions.

8) Claim 26 is objected to as being dependent on a rejected claim, but would be allowable if amended to include all of the limitations of the base claim and any intervening claim.

9) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy G Foster whose telephone number is (571) 272-4554. The examiner can normally be reached on Mon-Fri, 8:45 am - 5:15 pm.

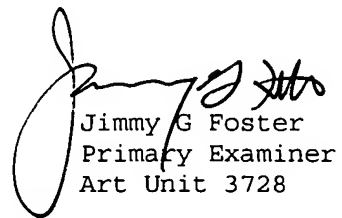
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Application/Control Number: 10/695,862

Page 7

Art Unit: 3728

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Jimmy G Foster
Primary Examiner
Art Unit 3728

JGF
3 January 2005